



City of Westminster

Licensing Committee

Item No:	
Date:	22 March 2017
Classification:	For General Release
Title of Report:	Licensing Appeals
Report of:	Director of Law
Wards involved:	Not applicable
Policy context:	A business like approach
Financial summary:	None
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1. Summary

1.1 This report provides a summary of recent appeal results.

2. Recommendations

2.1 That the report be noted.

3. Background

3.1 To date, 466 appeals have been heard / settled / withdrawn:

- 16 allowed
- 13 allowed only in part
- 56 dismissed
- 216 withdrawn
- 165 settled

4. Licensing Appeals

4.1 Chutney Mary, 72-73 St James's Street, London, SW1 (Licensing Act 2003)

The matter concerns an application by an Indian restaurant in St James known as Chutney Mary. The premises applied to vary their licence so as to permit the sale of alcohol until 20.00 without food on the premises. The proposed variation concerned condition 19 on the premises which provides that:

Alcohol may be supplied to customers without food provided that:

- a) Such supply shall only be to persons seated and served by waiter / waitress service
- b) Such supply shall cease at 20.00
- c) Such supply shall be limited to 30 customers to be seated in the area hatched black and shown on plan number 3346/LIC2.22

The availability of alcohol without food shall not be promoted or advertised otherwise than on menus and price lists within the premises.

Relevant representations were received from Environmental Health, 11 local residents and the St James' Conservation Trust. Environmental Health and one of the residents, Mr Turner, were present at the Licensing Sub-Committee hearing and made oral representations.

The main issue in the appeal will be whether this restaurant should be permitted to operate a bar area where 30 customers are permitted to purchase alcohol without food until 20.00 hours. Having considered the papers and heard representations, the Licensing Sub-Committee decided that that it did not have confidence in the operator upholding the licence objectives and complying with licence conditions, in view of admitted breaches in licence conditions in the past, and credible evidence from residents of noise and odour nuisance in the past. The Licensing Sub-Committee therefore refused the variation application. Notice of appeal was lodged by MW Eat Ltd against the decision of the Sub-Committee. The appeal was listed for a three day hearing on 13th – 15th February 2017. Prior to the appeal being heard, a proposed offer of settlement

was received from the Appellants offering to reduce the number of persons permitted to purchase alcohol without food to 20 persons and to reduce the hour to which that can take place to 19.30. The proposal was referred back to the Licensing Sub-Committee for consideration. The Licensing Sub-Committee authorised the settlement of the appeal on the terms proposed and on the condition that 1) the appellants pay the Council's costs incurred to date in defending the appeal and 2) that an additional condition be added to the licence prohibiting patrons from taking open drinks outside the premises. The Appeal was therefore settled and the dates of the full hearing vacated.

4.3 28th Floor and 29th Floor Millbank Towers, 21-24 Millbank SW1 (Licensing Act 2003)

Applications for review of the premises licences in respect of both the 28th floor and 29th floor of Millbank Tower were submitted by the Metropolitan Police on the grounds of the prevention of crime and disorder and public safety. The applications followed a number of incidents of crime and disorder having taken place on the 28th floor on the night of the 26th March 2016. Several people had been seriously assaulted inside the premises. Due to the serious nature of the incidents and the lack of effective management the Metropolitan Police sought the revocation of the premises licences for both the 28th and 29th floors of Millbank Tower. The Police advised that had they been made aware of the nature of the incidents initially by the applicant, they would have submitted an expedited review. The Police had only become aware of the serious nature of the incidents when they had viewed the CCTV and carried out further investigations into the incidents.

A Licensing Sub-Committee considered the applications on 4 July 2016. Having considered the evidence and heard from those present, the Sub-Committee took the view that it lacked confidence in the company's ability to promote the licensing objectives based on the management's failure to comply with conditions on the premises licences and liaise with Police. The Sub-Committee was concerned to note that even prior to the review hearing, the Licence Holder had failed to liaise with the Police regarding the proposed conditions. The Sub-Committee shared the serious concerns of the Police and had no confidence in staff, including those who had been in place before and after the event in March. The Sub-Committee having regard to the full set of circumstances, the crime and disorder and public safety licensing objectives which were not being promoted by the licence holder, considered it appropriate and proportionate to revoke the premises licences for the 28th and 29th floors.

Appeals were lodged by the Applicant's on 20 September 2016. The appeals will be heard over 4 days commencing on 28th March 2017 through to 31 March 2017.

4.3 Sophisticats, 3-7 Brewer Street, London, W1F 0RD (Local Government (Miscellaneous Provisions) Act 1982)

On 19 December 2016 an appeal was received under the Local Government (Miscellaneous Provisions) Act 1982 against the LSC's refusal on 1st December 2016 to vary the sex establishment licence of Sophisticats, 3-7 Brewer Street, London, W1. The application sought to vary the licence so as to extend the terminal hour by three hours for relevant entertainment on the day following Mondays to Saturdays and five hours for days following Sundays. It was also

proposed to vary the layout of the premises, to permit full nudity for dancers and to reduce capacity.

A second appeal has also been received against the LSC's decision of the same date, 1 December 2016 to grant a new premises licence under the Licensing Act 2003 for Sophisticats, limiting the hours to 03.00 on Monday to Saturday and 23.00 on Sundays (as opposed to the 06.00 Mon-Sat and 05.00 Sun sought by the application).

A date for the full hearing of the appeals will be set within the next few weeks

5. JUDICIAL REVIEWS / CASE STATED

5.1 Sex Establishment Licensing – Fees Hemming and others v Westminster City Council.

The history of and the background to this case has been set out in detail in previous reports to the Committee. The case has returned to the Supreme Court for final orders to be made following the earlier decisions of the Supreme Court and of the Court of Justice of the European Union.

The issues remaining outstanding are remedy and costs. Both the claimants and the City Council have now submitted representations to the Court on those issues. The Supreme Court will now decide whether to determine those issues itself, with or without a further hearing, or whether to remit them to the High Court for a further hearing.

6. Legal implications

6.1 There are no legal implications for the City Council arising directly from this report.

7. Staffing implications

7.1 There are no staffing implications for the City Council arising directly from this report.

8. Business plan implications

8.1 There are no business plan implications arising from this report.

9. Ward member comments

9.1. As this report covers all wards, comments were not sought.

10. Reason for decision

10.1 The report is for noting.

If you have any queries about this report or wish to inspect any of the background papers please contact Hayley Davies on 020 7641 5984; email: hdavies@westminster.gov.uk

Background Papers

- None